

Ordinance No: 15-06
Zoning Text Amendment No: 03-06
Concerning: Local Map Amendments -
Metro Station Policy Area
Draft No. & Date: 2 – 4.29/03
Introduced: 3/18/03
Public Hearing: April 21, 2003; 7:00 PM
Adopted: April 29, 2003
Effective: April 29, 2003

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: District Council

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- providing a process for an applicant for reclassification of property located in a Metro Station Policy Area to satisfy the applicant's burden of proof on certain traffic impact issues, and [[.]]
- including a December 31, 2003, expiration date.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-H-2 "MAP AMENDMENTS—APPLICATIONS"

Add a new section

59-H-2.6 Local Map Amendments – Metro Station Policy Areas

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws
by the original text amendment.*

*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*

*Double underlining indicates text that is added to the text
amendment by amendment.*

*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) No. 03-06 was introduced by the District Council on March 18, 2003. ZTA 03-06 clarifies an issue raised by the Hearing Examiner in Local Map Amendment G-801, that a zoning text amendment arguably is needed if the Annual Growth Policy traffic mitigation process is to be applied as a method of traffic review at the zoning stage. Under ZTA 03-06, an applicant for local map amendment for property located within a Metro station policy area may satisfy traffic impact issues by meeting applicable trip reduction requirements of the Alternative Review Procedure for Metro Station Policy Areas.

The Montgomery County Planning Board in its report to the Council recommended that ZTA 03-06 text amendment be approved, as introduced. However, the Board believes that some future action should be taken to address the same policy issued raised by the Hearing Examiner for other development circumstances subject to an alternative review procedure under the Annual Growth Policy.

The County Council held a public hearing on April 21, 2003, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on April 28, 2003 to review the amendment. The Committee addressed a number of questions raised at the public hearing on ZTA 03-06:

1) *What Policy Issue does ZTA 03-06 Address?*

ZTA 03-06 addresses a policy issue raised by the Hearing Examiner pertaining to how traffic is to be evaluated for Metro station area projects at the zoning and subdivision stages. The Annual Growth Policy provides an alternative to the customary traffic test for development located entirely within a Metro Station Policy area. It was the view of the Committee that, under existing zoning law, the Alternative Review Procedure for Metro Station Areas is applied at subdivision and was not designated to be used to satisfy the standard of traffic mitigation at zoning. The Committee supports allowing applicant for rezoning in a Metro Station Policy Area to satisfy the burden of proof for traffic by meeting the requirements of the Alternative Review Procedure for Metro Station Areas.

2) *Is the requirement for a traffic study at the zoning stage eliminated by ZTA 03-06?*

Contrary to much of the public hearing testimony, ZTA 03-06 would not allow a developer to avoid providing a traffic study at the zoning stage. Under ZTA 03-06, an applicant for development in a Metro Station Policy Area at the zoning stage would be required to provide a traffic study sufficient to demonstrate that 50 percent of the trips from the development can be mitigated and must certify on the Development Plan that mitigating requirements will be met. The Committee noted that, the assumption that a traditional traffic study conducted at the zoning

stage is a more desirable method of determining the impact on roads is not necessarily valid. The Alternative Review Procedure provides a scheme that makes traffic mitigation reasonably certain of fruition, since the analysis occurs later in the development process when the true impact of development is more predictable.

3) *What traffic mitigation obligations are required for subdivision in a Metro Station Policy Area?*

An applicant for subdivision under the Alternative Review Procedure must agree in a contract with the Planning Board to: (1) mitigate at least 50 percent of the trips, (2) make a payment toward transportation improvements, and (3) participate in the area's transportation management organization. A traffic study is required of the applicant that demonstrates compliance with the Board's trip reduction goals and must include a Local Area Transportation Review (LATR) analysis, if 50 or more total weekday trips during the morning or evening peak period would result from the project. A comprehensive local area review report must also be prepared to enable the Planning Board to identify any transportation improvements needed to support the subdivision. The Alternative Review Procedure was established to meet smart growth objectives by providing an incentive for Metro Station development. A primary objective of the Alternative Review Procedure is to mitigate traffic by decreasing automobile use and increasing transit ridership, instead of intersection and road improvements, which are not always feasible in Metro Station areas.

After a full discussion of issues raised at the public hearing and the comments of the Montgomery County Planning Board, the Committee recommended that ZTA 03-06 be approved as introduced.

The District Council reviewed Zoning Text Amendment No. 03-06 at a worksession held on April 29, 2003, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee. The Council added a provision that will sunset ZTA 03-06 on December 31, 2003. It is the intent of the Council to review, before December 31, 2003, the Alternative Review Procedure for Metro Station Policy Areas and its relationship to the type of traffic analysis an applicant must provide at the zoning stage.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 03-06 will be approved as introduced.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Division 59-H-2 is amended as follows:**

2 **DIVISION 59-H-2. MAP AMENDMENTS - APPLICATIONS.**

3 * * *

4 **59-H-2.6. Local Map Amendments– Metro Station Policy Areas.**

5 An applicant for a local map amendment for property located completely in
6 a Metro station policy area, that will be subject to the Alternative Review
7 Procedure for Metro Station Policy Areas contained in the Annual Growth Policy,
8 may satisfy the applicant’s burden of proof on any traffic impact issue by:

9 (a) showing that the applicant will satisfy the applicable trip reduction
10 requirements of the Alternative Review Procedure for Metro Station
11 Policy Areas contained in the Annual Growth Policy; and

12 (b) including in the applicant’s certified development or diagrammatic
13 plan a binding element that commits the applicant to comply with all
14 relevant requirements of the Alternative Review Procedure for Metro
15 Station Policy Areas contained in the Annual Growth Policy.

16
17 **[59-H-2.6] 59-H-2.7 Sectional and district map amendments.**

18 * * *

19 **Sec. 2. Effective date.** This ordinance becomes effective immediately upon
20 Council adoption.

21 **Sec.3 Expiration Date.** This ordinance expires on December 31, 2003.

22
23 This is a correct copy of Council action.

24
25 _____
26 Mary A. Edgar, CMC

27 Clerk of the Council